

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

MONSANTO COMPANY and  
MONSANTO TECHNOLOGY LLC,

Plaintiffs,

v.

E.I. DU PONT DE NEMOURS AND CO. and  
PIONEER HI-BRED INTERNATIONAL, INC.,

Defendants.

Case No. 09-cv-0686 (ERW)

**DEFENDANTS' REPLY MEMORANDUM OF LAW  
IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT OF  
INVALIDITY FOR IMPROPERLY BROADENED REISSUE CLAIMS**

**Appendix A**

**APPENDIX A**

**Claim Chart Demonstrating Promoterless Claim 116 Is Broader Than Claim 4 of the '435 Patent (X = Indicates that a corresponding limitation is not present in the Promoterless Claim) (reproduced from chart attached to opening brief, Dkt. 217, Ex. 2, App. B-3)**

<b>'435 Patent Claim 4</b>	<b>'247 Reissue Promoterless Claim 116</b>
	A glyphosate-tolerant plant comprising a DNA sequence
A recombinant, double-stranded DNA molecule comprising in sequence:	<b>X</b>
a) <i>a promoter</i> which functions in plant cells to cause the production of an RNA sequence;	<b>X</b>
b) a structural DNA sequence that causes the production of an RNA sequence	<b>X</b>
which encodes a EPSPS enzyme	encoding an EPSPS enzyme
having the sequence domains: [4 specified domains]; and	having the sequence of SEQ ID NO: 70.
c) <i>a 3' non-translated region</i> which functions in plant cells to cause the addition of a stretch of polyadenyl nucleotides to the 3' end of the RNA sequence;	<b>X</b>
where the promoter is heterologous with respect to the structural DNA sequence and	<b>X</b>
adapted to cause <i>sufficient expression of the encoded EPSPS enzyme to enhance the glyphosate tolerance</i> of a plant cell transformed with the DNA molecule.	<b>X</b>